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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,813	02/23/2004	Seiki Takahashi	023971-0370	5466

22428 7590 12/29/2006
FOLEY AND LARDNER LLP
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EXAMINER

PIPALA, EDWARD J

ART UNIT	PAPER NUMBER
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3663

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/29/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/782,813	TAKAHASHI ET AL.	
	Examiner	Art Unit	
	Edward Pipala	3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-12,14-16 and 19-29 is/are pending in the application.
- 4a) Of the above claim(s) 11,28 and 29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-10,12,14-16 and 19-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office action is in response to amendments and remarks filed 10/6/2006.
Claims 1, 4, 7-10, 12, 14-15, 19-20 and 24-27 have been amended.
Claims 2, 3, 13, 17, 18 have been canceled.
Claims 11, 28 and 29 remain withdrawn from consideration as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-10, 12, 14-16 and 19-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Seto et al. (US Pub. 2003/0067219 A1) .

Independent claims 1 and 10 recite an automatic braking system for a vehicle comprising a forward-monitoring unit that automatically detects an obstacle preceding the vehicle and a control unit that varies an assumed steering characteristic and executes an automatic braking control operation to avoid a potential collision with the obstacle based on a steering characteristics of the vehicle.

Independent claim 12 recites an automatic braking system for a vehicle comprising: a forward-monitoring unit that automatically detects an obstacle preceding the vehicle, and a geometrical relationship among the vehicle, the obstacle and a path where the vehicle is traveling; a control unit that varies an assumed steering characteristic and executes an automatic braking control operation to avoid a potential collision with the obstacle based on a steering characteristics of the vehicle and the geometrical relationship; and a brake control unit that generates a braking force according to the automatic braking control operation determined by the control unit.

The Seto et al. publication specifically discloses an automatic braking system for a motor vehicle wherein it is judged that a possible collision of the own vehicle with a preceding vehicle is avoidable by operation of either of the brake pedal or the steering wheel, and subsequently applies a braking force when it is judged that the possible collision is unavoidable by operation of either the brakes or by steering. Figure 1 of Seto et al. discloses the use of a forward-monitoring unit in the form of the laser radar unit (1), a control unit (10) and a braking force control device (15). Furthermore, figures 3 and 4 show a geometrical relationship being established and determined between the own vehicle and the preceding vehicle. Please also see figures 5 and 6 which relate to steering speed (manually operation dependent) and tire slip angle (a characteristic of the state of the vehicle). These aspects are also disclosed and discussed in sections [0052-0053] of Seto et al. Furthermore, with respect to determining the steering characteristics based upon the condition of the path upon which the vehicle is traveling, please again refer to figures 3 and 4 which show the condition of the road as being

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partially blocked in figure 4 whereas in figure 3 there still seems to be space available to each side of the preceding vehicle.

With respect to claims 4-5, 7, 19-22 and 27, which recite in increasing detail steering avoidance by passing on either the left or the right sides of the obstacle based on the steering characteristics of the vehicle, detecting an avoidance space width, a necessary lateral displacement needed to carry out the pass, that the steering characteristics dependent on the state of the vehicle are based on at one of a weight, yaw moment, vehicle speed, yaw rate, vehicle slip angle..., please see figure 7 which relates time needed to avoid a collision with vehicle speed and needed lateral distance, as well as sections [0024-0059].

With respect to remaining claims 6, 8, 9, 14-16 and 23-26, which additionally relate to the easiness with which steering avoidance and braking avoidance can be accomplished, please further see sections [0059-0075] which disclose the manner in which judgments are made with respect to whether to avoid a potential collision by braking or steering depending on how much time is available for braking, the amount of avoidance space in the form of a lateral distance is needed to make a pass to either side possible, selection of the side with the greatest space available, and the distance d to the preceding vehicle. The relative "easiness" being a function of the magnitude of the distance to the vehicle, the relative speed of the vehicle when considering a steering avoidance maneuver, the slip angle of the tires which would be in effect for such a maneuver, and the speed with which a driver would have to move the steering wheel in

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order to accomplish a steering based avoidance maneuver before the braking time available may come to a catastrophic end.

The above applied reference has common inventors with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Response to Arguments

3. Applicant's arguments filed 10/6/06 have been fully considered but they are not persuasive.

Applicant's apparently sole ground of argument seems to be directed to the idea that Seto et al. ('219) does not teach "an assumed steering characteristic dependent on manual steering operation in accordance with a condition of a path where the vehicle is traveling", which is also the manner in which the independent claims have been amended to read.

In the above rejection it has been noted that sections 0059-0075 disclose the manner in which judgments are made with respect to whether to avoid a potential collision by braking or steering depending on how much time is available for braking, the amount of avoidance space in the form of a lateral distance is needed to make a pass to

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either side possible, selection of the side with the greatest space available, and the distance d to the preceding vehicle. These are the inherent considerations of "assumed steering characteristics" which are being taught by Seto et al., where section 0037 further teaches the considerations for braking and sections 0040 through 0053 clearly teach and disclose the numerous "considerations" which affect the steering characteristics which are "assumed" or "varied" on a constant updated basis in conjunction with the detected dynamic state of the vehicle and its proximity to a preceding vehicle and the allowed space detected to each side thereof.

Sections 0073-0075 clearly disclose determining the relative speed of the vehicles, determining the angles with respect to the right and left rear edges of the preceding vehicle (where the smaller angle is selected), and calculating the lateral distance "Y" needed to avoid the preceding vehicle by steering and braking adjustments.

Conclusion

4. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Pipala whose telephone number is 571-272-1360. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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